

## AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-03784

COUNSEL: None

HEARING DESIRED: Yes

[REDACTED]

Applicant requests his service records be adjusted to reflect 41 more days of marriage within the Air Force. Applicant's submission is at Exhibit A.

The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). Applicant's response to the advisory opinion is at Exhibit E.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been sufficiently rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The documentation provided with this case was sufficient to give the Board a clear understanding of the issues involved and a personal appearance, with or without legal counsel, would not have materially added to that understanding. Therefore, the request for a hearing is not favorably considered.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Ms. Martha Maust, Mr. Robert W. Zook, and Mr. Kenneth L. Reinertson considered this application on 23 July 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.

*Martha Maust*  
Panel Chair'

## Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. AFBCMR Ltr Forwarding Advisory Opinion
- E. Applicant's Response



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS

17 MAR 1988

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPSFR  
550 C St. West, Suite 37  
Randolph AFB TX 78150-4739

SUBJECT: Application for Correction of Military Records - [REDACTED]  
[REDACTED] USAF, Retired, [REDACTED]

1. **Requested Action:** The applicant is requesting correction of his records to provide continued identification card benefits and privileges for his spouse **once their divorce is final.**

2. **Facts:**

a. [REDACTED] voluntarily retired 1 September 1989, with **24 years, 11 months and 16 days of active service.** At the time of retirement, the overlap of their **marriage and his creditable service** in determining eligibility to retired pay **was 19 years, 10 months, and 20 days.** The overlap period begins on the date of **marriage, in their case, 11 October 1969 and stops on [REDACTED]'s last day of active duty, 31 August 1989.** His spouse met **the first two** requirements of the Uniformed Services Former Spouses' Protection Act, She **has been married to [REDACTED] for at least 20 years and he has performed 20 years of service.** However, she did not meet the third requirement of having completed **at least a 20-year requirement of overlap of marriage and the sponsor's creditable service in determining eligibility to retired pay.** Because **the overlap was less than 20 years but more than 15 years, [REDACTED]'s spouse will be entitled to medical care benefits only as a former spouse for one year from the date of their divorce provided she is not enrolled in an employer-sponsored health plan or she has not remarried.**

b. [REDACTED] military records would have to be **adjusted so his dates would reflect that his former spouse meets the 20-year overlap, thus making her eligible for continued medical care benefits, commissary, base exchange, and theater privileges.** However, his records are not in error. **No authority exists to change his retirement date for the sole purpose of allowing his spouse eligibility to former spouse (20/20/20) benefits and privileges.** The law **specifies there must be at least a 20-year overlap of the marriage and the sponsor's creditable service in determining eligibility to retired pay.**

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3. Recommendation. No error or injustice has occurred. \_\_\_\_\_ did not complete a full, 20-year overlap of marriage and the sponsor's creditable service in determining eligibility to retired pay. To adjust [REDACTED] dates would not be consistent with the intent of the law.



GEORGE E. HOBACK, GS-13, DAF

Chief, DEERS/RAPIDS Operations Branch

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